

BOARD OF APPEALS CASE NO. 4838

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BEFORE THE

APPLICANT: Richard Anderson

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ZONING HEARING EXAMINER

**REQUEST: Variance to operate as a
hawker and peddler from a vehicle with
a capacity rating greater than 1 ton;
2106 Belair Road, Fallston**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 8/12/98 & 8/19/98

HEARING DATE: October 28, 1998

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Record: 8/14/98 & 8/21/98

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Richard H. Anderson, appeared before the Hearing Examiner requesting a variance to Section 267-27(B)(7)(k) of the Harford County Code, to operate as a hawker and peddler from a vehicle which has a manufacturer's rating capacity greater than 1 ton in the B3 District.

The subject parcel is owned by Ronald Adams and is located at 2106 Belair Road in the Third Election District. The parcel is identified as Parcel No. 350, in Grid 2-D, on Tax Map 55. The parcel contains 5.44 acres, more or less, all of which is zoned B3.

Mr. Richard Anderson appeared and testified that the subject parcel is improved by two small buildings, an auto detail business, and a used car dealership. The witness said he operates a business known as the "Crab Truck" and that the truck he uses on the parcel has a gross vehicle weight of 19,000 lbs. The witness said that the truck rarely is moved from the parcel and has been on the parcel for a number of years without complaint. Mr. Anderson said he purchased the seafood business and that the predecessor in title was using the vehicle at the time of purchase. He said the vehicle has been used on the parcel since 1977. The witness said that there is adequate area to operate the business on the parcel and that there is adequate parking area for his customers. The witness said that denial of the variance would cause a hardship because he would be required to obtain a different truck or find a different location for the business, which has operated on the property in excess of 20 years.

No protestants appeared in opposition to the Applicant's request and the Staff Report of the Department of Planning and Zoning recommends conditional approval.

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CONCLUSION:

The Applicant is requesting a variance to Section 267-27(B)(7)(k), which provides:

“Specific temporary uses. The temporary uses described below shall be subject to the following:

- (7) Hawkers and peddlers sales shall be permitted in the VB, B2, B3 and CI Districts, subject to the following additional requirements:
 - (k) No hawker or peddler shall operate from a vehicle which has a manufacturer’s rated capacity greater than one (1) ton.”

The uncontradicted testimony of the Applicant is that he and predecessors in the business have operated the wholesale seafood business from a 2-1/2 ton, 1977 vehicle for over 20 years without complaint. The Applicant said that denial of the variance would cause a hardship because he would be required to obtain a different vehicle or to move from the property which he has used for a number of years in the operation of the business.

It is the finding of the Hearing Examiner that denial of the variance would cause an unnecessary hardship and, further, that approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

Therefore, the requested variance is hereby recommended, subject to the following conditions:

1. The approval is for the specific truck with Vehicle Identification No. D61FK7J005707. If and when the Applicant replaces the truck, it shall be replaced with a vehicle which complies with the Code limitations.
2. The Applicant shall obtain a new permit which accurately reflects the manufacturer’s rated capacity for the truck.

Date **DECEMBER 4, 1998**

L. A. Hinderhofer
Zoning Hearing Examiner